

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of:

**Dan Kikinis *et al.***

Serial 10/071,091

No.:

Filed: February 7, 2002

For: A METHOD AND SYSTEM FOR  
IMPLEMENTING AN ELECTRONIC  
PROGRAMMING GUIDE

Atty. Docket No.: 007287.00018

Group Art Unit: 2424

Examiner: Shang, Annan Q.

Confirmation No.: 1032

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

**Box AF**

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Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

Applicants respectfully request review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated in the below remarks. If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

***Remarks***

Having received and reviewed the Final Office Action dated February 5, 2009, Applicants respectfully submit that the standing rejections are based on one or more clear errors, and that the appeal process can be avoided through a pre-appeal brief review as set forth in the Official Gazette notice of July 12, 2005.

The pending rejections fail to address all the claim limitations, and exhibit clear factual and legal errors with respect to the cited references. The specific error relied upon in this Pre-Appeal Brief Request for Review includes the following:

- The Office made clear error in relying on U.S. Patent No. 6,728,966 to Arsenault *et al.* ("Arsenault") in its rejection of claims 1-8, 12-14, 29-36, 40-42, 67 and 68 as argued in Applicants' Amendment and Request for

Reconsideration dated November 10, 2008, at pp. 11 and 12. Claims 1 and 29 recite, among other features, “a method for implementing an electronic program guide, the method comprising receiving programming information from a source, storing the received programming information, *in its entirety*, in a data storage area, continuously scanning the data storage area, in a cyclical manner, to identify and remove data entries meeting a first predetermined criterion...” (Emphasis added). Applicants respectfully assert that Arsenault fails to teach or suggest the features of claim 1. Arsenault describes an electronic programming guide with a plurality of linked lists that are used to remove redundancy, increase search speed and allow dynamic categories. Abstract. The system receives a stream of digitized data packets containing information and the packets are *filtered out* to remove any packets that are not currently of interest. See col. 6, lines 5-11 (emphasis added). That is, the data is filtered *prior to* being stored. The Office asserts, at p. 2 of the final Office Action, that various portions of Arsenault teach or suggest the data being stored in its entirety. Applicants respectfully disagree. At most, the cited portions of Arsenault teach or suggest content packets, created from *filtered* information, that are *stored as they are created*. See col. 6, line 55 – col. 7, line 46. There is absolutely no teaching or suggestion of data being stored in its entirety, let alone a method wherein, responsive to the data being stored *in its entirety*, the data storage area is continuously scanned, in a cyclical manner, to identify and remove data entries meeting a first predetermined criterion. Rather, Arsenault describes a system and method wherein incoming data is sorted upon entry to determine what will be saved and what will be discarded. There is no teaching or suggestion of the entirety of the data being stored and continuously scanning the data storage area, as recited in claims 1 and 29.

- Claims 2-8, 12-14, 67, and 68 that depend from claim 1, and claims 30-36 and 40-42 that depend from claim 29, are allowable for at least the same

reasons as discussed above, and further in view of the additional novel features recited therein.

- Further, claims 3 and 31 recite, among other features, programming information further comprising tokens, including *compressed forms* of the information about the individual programs, used to describe individual programs and a meaning associated with the tokens. Arsenault fails to teach or suggest this feature. Arsenault describes content records that are accompanied by a title and a label. Col. 6, lines 55-63. Arsenault fails to teach or suggest tokens that include *compressed forms* of information about individual programs. Further, there is no teaching or suggestion of a *meaning* associated with the tokens. Rather, the records of Arsenault include a title and a label. Accordingly, Applicants respectfully assert that claims 3 and 31 are allowable over the cited reference.
- In addition, claims 67 and 68 recite wherein the meaning associated with the tokens is stored in a token dictionary and the token dictionary is modifiable, respectively. There is absolutely no teaching or suggestion in Arsenault of a token having a meaning stored in a token dictionary. In fact, as discussed above, there is no teaching or suggestion of a meaning associated with the tokens. Rather, the cited portions of Arsenault merely describe titles and labels. There is no teaching or suggestion of a meaning associated with the title or label, let alone a meaning stored in a modifiable dictionary. Accordingly, Applicants respectfully assert that claims 67 and 68 are patentably distinct from Arsenault.
- The Office made clear error in relying on Arsenault in combination with U.S. Patent No. 5,155,831 to Emma *et al.* (“Emma”) in its rejection of claims 9-11, 37-39, 69, and 70, as argued in Applicant’s Amendment and Request for Reconsideration dated November 10, 2008, at p. 13. Claims 9-11 and 69 depend from claim 1, and claims 37-39 and 70 depend from claim 29, and are allowable for at least the same reasons as their respective base claims. The addition of Emma fails to cure the deficiencies of Arsenault with respect to claims 1 and 29. For instance, Emma fails to

teach or suggest a method wherein received programming information is stored *in its entirety* and, responsive to storing the received programming information in its entirety, continuously scanning the data storage area to identify and remove data entries meeting a first predetermined criterion. Accordingly, Applicants respectfully assert that claims 9-11, 37-39, 69 and 70 are allowable over the cited combination of references.

While Applicants believe that the above points represent the clearest errors made by the Office, Applicants reserve the right to appeal on other bases and errors. Applicants further reserve the right to address the rejections of any other claims not identified above on appeal should the appeal of this case proceed after the Office's consideration of this paper.

***Conclusion***

All issues having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same. However, if for any reason the review panel believes the application is not in condition for allowance or there are any questions, the review panel is invited to contact the undersigned at (202) 824-3156.

Respectfully submitted,

BANNER & WITCOFF, LTD.

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